

§ 628.42

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security into the endowment fund established under this part.

(Approved by the Office of Management and Budget under control number 1840–0564)

(Authority: 20 U.S.C. 1065)

[49 FR 28521, July 21, 1984, as amended at 49 FR 37325, Sept. 21, 1984; 52 FR 11258, Apr. 8, 1987; 53 FR 49146, Dec. 6, 1988]

§ 628.42 What may a grantee not use to match an endowment challenge grant?

To match an endowment challenge grant, a grantee may not use—

- (a) A pledge of funds or securities;
- (b) Deferred gifts such as a charitable remainder annuity trust or unitrust;
- (c) Any Federal funds;
- (d) Any borrowed funds; or
- (e) The corpus or income of an endowment fund or quasi-endowment fund existing at the closing date established by the Secretary for submission of eligibility requests under the Endowment Challenge Grant Program. This includes the corpus or income of an endowment or quasi-endowment fund established by a foundation if the foundation is tax-exempt and was established for the purpose of raising money for the institution.

(Authority: 20 U.S.C. 1065)

§ 628.43 What investment standards shall a grantee follow?

(a) A grantee shall invest, for the duration of the grant period, the endowment fund established under this part in savings accounts or in low-risk securities in which a regulated insurance company may invest under the law of the State in which the institution is located.

(b) When investing the endowment fund, the grantee shall exercise the judgment and care, under the circumstances, that a person of prudence, discretion and intelligence would exercise in the management of his or her own financial affairs.

(c) An institution may invest its endowment fund in savings accounts permitted under paragraph (a) of this section such as—

- (1) A federally insured bank savings account;
- (2) A comparable interest bearing account offered by a bank; or

(3) A money market fund.

(d) An institution may invest its endowment fund in low-risk securities permitted under paragraph (a) of this section such as—

- (1) Certificates of deposit;
- (2) Mutual funds;
- (3) Stocks; or
- (4) Bonds.

(e) An institution may not invest its endowment fund in real estate.

(Authority: 20 U.S.C. 1065)

§ 628.44 When and for what purposes may a grantee use the endowment fund corpus?

(a)(1) During the grant period, a grantee may not withdraw or spend any part of the endowment fund corpus.

(2) If, during the grant period, a grantee withdraws or spends all or part of the endowment fund corpus, it must repay to the Secretary an amount equal of 50 percent of the amount withdrawn or spent plus the income earned on that amount.

(b) At the end of the grant period, the institution may use the endowment fund corpus for any educational purpose.

(Authority: 20 U.S.C. 1065)

§ 628.45 How much endowment fund income may a grantee use and for what purposes?

(a) During the endowment challenge grant period, a grantee—

(1) May withdraw and spend up to 50 percent of the total aggregate endowment fund income earned prior to the date of expenditure;

(2) May spend the endowment fund income for—

(i) Costs necessary to operate the institution, including general operating and maintenance costs;

(ii) Costs to administer and manage the endowment fund; and

(iii) Costs associated with buying and selling securities, such as stockbroker commissions and fees to “load” mutual funds;

(3) May not use endowment fund income for—

(i) A school or department of divinity or any religious worship or sectarian activity;

(ii) An activity that is inconsistent with a State plan for desegregation applicable to the grantee; or

(iii) An activity that is inconsistent with a State plan applicable to the grantee; and

(4) May not withdraw or spend the remaining 50 percent of the endowment fund income.

(b) Notwithstanding paragraph (a)(1) of this section, the Secretary may permit a grantee that requests to spend more than 50 percent of the total aggregate endowment fund income to do so if the grantee demonstrates that the expenditure is necessary because of—

(1) A financial emergency such as a pending insolvency or temporary liquidity problem;

(2) A situation threatening the existence of the institution such as destruction due to a natural disaster or arson; or

(3) Another unusual occurrence or demanding circumstance, such as a judgment against the institution for which the institution would be liable.

(c) If, during the grant period, a grantee spends more endowment fund income or uses it for purposes other than permitted under paragraphs (a) or (b) of this section, it shall repay to the Secretary an amount equal to 50 percent of the amount improperly spent.

(d) At the end of the grant period, the institution may use all of the endowment fund income for any educational purpose.

(Authority: 20 U.S.C. 1065)

[49 FR 28521, July 21, 1984, as amended at 52 FR 11258, Apr. 8, 1987; 58 FR 11163, Feb. 23, 1993]

§ 628.46 How shall a grantee calculate the amount of endowment fund income that it may withdraw and spend?

A grantee shall calculate the amount of endowment fund income that it may withdraw and spend at a particular time as follows:

(a) On each date that the grantee plans a withdrawal of income, it must—

(1) Determine the value of endowment fund income by subtracting the endowment fund corpus from the current total value of the endowment fund on that date; and

(2) Calculate the amount of endowment fund income previously withdrawn from the endowment fund.

(b) If the value of endowment fund income in the endowment fund exceeds the aggregate amount of previously withdrawn endowment fund income, the grantee may withdraw and spend up to 50 percent of that excess fund income.

(Authority: 20 U.S.C. 1065)

[49 FR 28521, July 21, 1984, as amended at 52 FR 11258, Apr. 8, 1987]

§ 628.47 What shall a grantee record and report?

A grantee shall—

(a) Keep records of—

(1) The source, kind and amount of matching funds;

(2) The type and amount of investments of the endowment fund;

(3) The amount of endowment fund income; and

(4) The amount and purpose of expenditures of endowment fund income;

(b) Retain each year's records for a minimum of five years after the grant period ends;

(c) Allow the Secretary access to information that the Secretary judges necessary to audit or examine the records required in paragraph (a) of this section;

(d) Carry out the audit required in 34 CFR 74.61(h) or 80.26 and the appendix to 34 CFR part 80, as applicable;

(e) Provide to the Secretary a copy of the external or internal audit to be performed under 34 CFR 74.61(h) or 80.26 and the appendix to 34 CFR part 80, as applicable; and

(f) Submit reports on a timely basis that are requested by the Secretary.

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(Authority: 20 U.S.C. 1065 and 1232f)

[49 FR 28521, July 12, 1984, as amended at 52 FR 11258, Apr. 8, 1987; 53 FR 49146, Dec. 6, 1988; 58 FR 11164, Feb. 23, 1993]

§ 628.48 What happens if a grantee fails to administer the endowment challenge grant in accordance with applicable regulations?

(a) The Secretary may, after giving the grantee notice and an opportunity